

REMARKS

Claim 1 has been amended above to clarify the invention and distinguish the Pond reference by incorporating the limitations of Claim 9 and a rectangular shape, also thereby limiting the claims dependent on Claim 1, in order to advance prosecution. Claim 9 has been cancelled, and Claims 10, 11 and 15 amended to correct dependency. No new matter is introduced thereby.

Alleged public use or on sale activity

Based upon Applicant's Declaration under 37 C.F.R. 1.132 filed with the IDS, the Office Action requests additional information re possible public use or on sale activity, namely "detailed information involving the two occurrences mentioned in paragraph 3 including ... who became aware of applicants invention ... and if any confidentiality agreements were reached with those who came in contact." Applicant's Attorney assumes that this request is intended to be made under 37 CFR 1.105, although this authority is not cited as required by MPEP 704.14(a). Although the requested information does not fall under any of the examples listed in MPEP 704.10 or or 704.11(a), Applicant will make a good faith effort to comply so as to advance prosecution. Claims 1 through 20 are rejected under 35 U.S.C. 102(b) based upon perceived public use or sales in 1992 and/or 1998.

The attached additional Declaration of Applicant and the attached letter of Mrs. Vicky Beaver, parent of the gift recipient of 1992, document that this "gift" was actually conveyed under conditions of confidentiality, and that only members of the immediate Beaver family (i.e., parents and child) were aware of the invention. Similarly, the models which were produced in 1998 after considerable review, evaluation and design efforts by Applicant, her contractors and Mr. David Root (partner and investor) were provided without cost to the recipients for further evaluation under confidential terms, as evidenced by the evaluation forms which were attached to the previous Declaration of Applicant. This is further documented by Applicant's present Declaration. Knowledge of the invention was similarly limited to immediate family members in these cases, as documented by the two attached letters of Judy Sheets and Debra Cree. No additional confidentiality agreements were deemed necessary for family members who might observe the products under evaluation. As stated in Applicant's present Declaration, no embodiments of the invention were sold or placed on sale before the filing of the present application.

It is respectfully submitted that prototypes of the claimed invention were subjected to evaluation and testing by actual children representative of the intended market group, and kept confidential to the extent possible for toys used by children.

Assuming *arguendo* that these prototypes could have been shown to other children or transported to other locations, such use could be justified as necessary for complete testing by a long line of case law. The development and testing of these prototypes should be considered to be "experimental" use which was necessary to assess market appeal, determine arrangements of features which would be used effectively by children and evaluate production costs. In view of the above remarks and the attached Declarations, it is respectfully requested that this rejection be withdrawn. Since Claims 10, 12, 19 and 20 were not rejected over prior art, withdrawal of the above rejection should leave these claims to preferred embodiments allowable. Claim 12 recites the use of a "securing piece" such as illustrated in Figs. 2 through 8 and 12 of the present application.

Prior Art Rejections

Claims 1 to 4, 7 to 9 and 13 to 18 were rejected under 35 U.S.C. 102(b) as anticipated by Pond's U.S. Patent No. 5,139,143 (Hereinafter "Pond"). This rejection is respectfully traversed. The Office Action states that "teaches a padded carrying portfolio comprising a sheet of flexible material 10, a plurality of compartments 90, securing 75 and carrying 85 means, and closure means 100." The Action further states that "The carrier is formed of flaccid material that may be waterproof and contain

padding ... and is folded up in the manner as claimed," referring to Fig. 6 of the patent. Actually, Pond's part 100 is disclosed at Col. 3, lines 30-31, as "closable pouches" without either illustration or description of closure means.

Applicant's Claim 1 as amended comprises carrying means having "at least two straps which are located and configured as to serve as either handles or carrying straps when said carrier is folded, ... also adapted to help secure the folded carrier in place." [Emphasis added.] Although Pond's embodiments feature handles 85 and straps 75, there is neither disclosure nor suggestion of straps adapted to serve as either handles or carrying straps when the carrier is folded. This is an important feature for the generic carrier invention of Claims 1-6 and 10-18, and particularly for the doll carrier of Claims 7, 19 and 20, where the folded unit can be worn as a backpack. Claim 1 and those dependent thereon also now recite a "substantially rectangular" sheet which is folded at least once through approximately 180 degrees in its longitudinal and transverse dimensions, further distinguishing Pond, whose only articles to be folded in more than one direction are non-rectangular; see, e.g., Pond's Fig. 6.

Thus, Pond does not disclose or suggest the invention as presently claimed in Claim 1 or the claims dependent thereon. In view of the above amendments and remarks, it is respectfully

submitted that the anticipation rejection over Pond should be withdrawn.

The rejection of Claims 5, 6 and 11 under 35 U.S.C. 103(a) over Pond in view of Gray's Design Patent No. 297,283 (Hereinafter "Gray") is respectfully traversed. The Action states that Pond "teaches the claimed invention except that the manner in which the pockets 100 is not specifically mentioned." Gray is stated to teach a similar carrier in which "the pockets are closed with a flap ... secured by a snap ... as claimed ...". The Action concludes that it would have been obvious "to close ... pockets of Pond ... as taught by Gray," since both inventions "teach alternative art [sic] equivalent means for closing interior pockets on a multi compartment carrier."

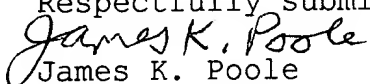
It is respectfully submitted that Claims 5 and 6, which depend indirectly from Claim 1, distinguish over this combination of teachings at least on the bases argued above for the rejection over Pond alone. Since Claim 11 recited specific securing means relating to Claim 1, any teachings of Pond and Gray relating to the closure means for the compartments of the claimed invention are irrelevant to this claim. Furthermore, it is respectfully submitted that there is little or no suggestion or motivation to combine the teachings of these references, relating as they do to tool portfolios and jewelry holders, respectively.

In view of the above amendments and arguments, it is respectfully submitted that this rejection should also be withdrawn.

The additional references cited but not applied in a rejection have been reviewed by Applicant and found to come no closer to suggesting the present invention.

It is respectfully submitted that all claims presented are in full condition for allowance, which action is earnestly requested. If any detail appears to stand in the way of immediate allowance of all claims or if any explanation of the information provided is needed, the Examiner is respectfully invited to contact Applicant's undersigned Attorney so that any remaining issues may be identified and readily resolved via a telephone interview. In view of the long pendency of the present application, including a second non-final rejection over prior art, a timely Notice of Allowance is respectfully requested.

The attached Request for Extension of Time extends the date for response to April 15, 2004.

Respectfully submitted,

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Attachments: Declaration under 37 C.F.R. 1.132 with attached
letters, Extension of Time and check